IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

CRP.No. 250 of 2007()

(AGAINST THE ORDER IN E.P.210/05 IN O.S.461/99 OF MUNSIFF'S COURT, VAIKOM)

REVN. PETITIONER: REVISION PETITIONER/PETITIONER/DECREE HOLDER

R.RAJENDRAN,SANTHALAYATHIL,ULLALA
KARAYIL,THALAYAZHAM VILLAGE,VAIKOM REP.BY
PRASANTHI ENTERPRISES,VAIKOM.

BY ADV. SRI.S.RAJ MOHAN

RESPONDENTS: RESPONDENTS/APPELLANT AND RESPONDENTS 2 AND 3

---

1. RENJITH RAJ,S/O.THANKAPPAN,
NAMBYATHIVEETTIL,MARAVANTHURUTH KARA,
KULASEKHARAMANGALAM VILLAGE,VAIKOM.

2. D.ANIRUDHAN,PUTHUKKADU VEETTIL,
PALLIPPURAM KARA,PALLUPPURAM VILLAGE,CHERTHALA
TALUK.

3. C.P.SAJEEVAN,KURIAPPILLIL,
MARAVANTHURUTHU KARA,KULASERKHARAMANGALAM VILLAGE,
VAIKOM,SECRETARY APCOS NO.K3(D),KSHEEROLPADAKA
SAHAKARANA SANGHAM.

4. CHITRAN,S/O.CHANDRAN KANNITHARAVETTIL
MARAVANTHURUTH KARA,KULASERKHARAMANGALAM VILLAGE,
VAIKOM,MILK TESTER,KSHEEROLPADAKA CO-OPERATIVE
SOCIETY LTD. NO.K(D)43.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 13/06/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON I.A.726/07 IN C.R.P.250/07

DISMISSED

13.6.2007 SD/- M.N.KRISHNAN, JUDGE

jj /TRUE COPY/

P.S.TO JUDGE

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = = = =
C.R.P. No. 250 OF 2007 G
= = = = = = = = = = = = = = = = =

Dated this the 13th June, 2007

O R D E R

This revision petition is preferred against the order of the executing court in E.P.No. 210/05 in O.S. No. 461/99. The matter was settled between the plaintiff and the defendants and as per the terms of compromise a decree was to be passed in terms of the plaint. The suit was one for realisation of Rs.99,780/-. A perusal of the plaint would reveal that the instalment due at the rate of Rs. 2,000/- each was Rs.86,000/- and interest thereon at 12% per annum Rs.14,480/-. This amount of Rs.100480/- was due as on 7-6-1999. An amount of Rs.5,000/- was paid and so the balance became Rs.95,480/- and interest till the date of plaint was taken at Rs.4,300/- ie. Rs.99,780/-. Unfortunately, the trial court only decreed the suit in terms of the compromise even without mentioning the amount which the plaintiff is entitled to. The plaintiff moved an application for execution of the decree and the court found that the plaintiff is only entitled to Rs.99,780/-. Since the 1st judgment debtor

has paid an amount of Rs.55,000/- the plaintiff is only entitled to the balance amount of Rs.44,780/- and therefore dismissed the execution petition and directed the plaintiff to file fresh application for the amount due to him as directed above. It is against that decision the present civil revision petition is filed. At the outset it has to be stated that the trial court has grossly erred in arriving at the figure and it had forgotten to look into the plaint or the decree. Therefore, the said order requires to be revised. Then the question remains is what is the amount due to the plaintiff. The suit was one for realisation of the defaulted instalments due under a kuri. It came to Rs.86,000/-. It is true that the plaintiff is entitled to interest on the defaulted amount. But it has to be stated that the plaintiff is not entitled to interest on interest. So the decree has to be construed as one for realisation of Rs.99,780/- with 12% interest on the sum of Rs.86,000/- from the date of the suit till decree and at the rate of 6% from the date of decree till realisation. The amount has to be calculated in this fashion and the amount paid towards the decree

debt has to be first adjusted towards interest and then the principal and amount calculated accordingly. Therefore the order under challenge is set aside and the executing court is directed to restore the E.P. to file and after giving notice to both sides find out the correct balance in the light of the findings rendered by me in this paragraph and order appropriate steps for realisation of the decree debt as prayed for.

C.R.P. is disposed of accordingly.

M.N. KRISHNAN
JUDGE

jan/